

1 Bob L. Olson (NV Bar No. 3783)  
2 V.R. Bohman (NV Bar No. 13075)  
3 SNELL & WILMER L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
4 Las Vegas, Nevada 89169  
Telephone: (702) 784-5200  
5 Facsimile: (702) 784-5252  
Email: bolson@swlaw.com  
vbohman@swlaw.com

6 James D. McCarthy (*admitted pro hac vice*)  
7 Jason P. Fulton (*admitted pro hac vice*)  
DIAMOND MCCARTHY, LLP  
8 2711 North Haskell Avenue, Suite 3100  
Dallas, Texas 75204  
9 Telephone: (214) 389-5300  
Facsimile: (214) 389-5399  
10 Email: jmccarthy@diamondmccarthy.com  
jfulton@diamondmccarthy.com

11 *Attorneys for Snow Covered Capital, LLC*

12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**

14 SNOW COVERED CAPITAL, LLC,

15  
16 Plaintiff,

17 vs.

18 WILLIAM WEIDNER, ANDREW FONFA,  
19 DAVID JACOBY, and LUCKY DRAGON LP,

20 Defendants.

21 SHELLEY D. KROHN, Chapter 7 Trustee of  
the LUCKY DRAGON, LP Estate,

22 Counter-claimant,

23 vs.

24 SNOW COVERED CAPITAL, LLC, NELLIE  
25 LLC, 1421 CAPITAL LLC, and ASSOCIATE  
CAPITAL, LLC,

26 Counter-defendants.  
27

Case No. 2:19-cv-00595-JAD-NJK

**STIPULATION TO EXTEND RESPONSE  
DATE FOR POTENTIAL THIRD PARTY  
DEFENDANTS NELLIE LLC, 1421  
CAPITAL LLC, AND ASSOCIATE  
CAPITAL LLC (FIRST REQUEST)**

**ORDER**

28 STIPULATION TO EXTEND RESPONSE DATE FOR POTENTIAL THIRD PARTY DEFENDANTS  
NELLIE LLC, 1421 CAPITAL LLC, AND ASSOCIATE CAPITAL LLC (FIRST REQUEST)

1 Pursuant to LR 7-1, LR IA 601, and LR IA 602, Plaintiff Snow Covered Capital, LLC (“SCC”)  
2 and Defendants Fonfa, Weidner, and Jacoby, and Defendant Lucky Dragon L.P. (“LDLP”) stipulate and  
3 agree that potential third party defendants Nellie LLC, 1421 Capital LLC, and Associate Capital LLC  
4 (collectively, the “Potential Third Party Defendants”) shall have up to and including **October 15, 2019** to  
5 file their response(s) to the claims that LDLP has asserted against them.

6 1. On April 8, 2019, Plaintiff Snow Covered Capital, LLC filed its complaint in this  
7 proceeding (ECF No. 1).

8 2. On June 18, 2019, Defendants Weidner and Jacoby filed their Answer (ECF No. 21) in  
9 response to the SCC Complaint.

10 3. On June 18, 2019, Defendant LDLP filed its Answer and Counterclaims (ECF No. 19) in  
11 response to the SCC Complaint. The “Counterclaims” asserted therein included claims against the  
12 Potential Third Party Defendants.

13 4. On June 19, 2019, Defendant Fonfa filed his Answer (ECF No. 22) in response to the SCC  
14 Complaint.

15 5. On July 9, 2019, SCC filed a motion to dismiss the Counterclaims that Defendant LDLP  
16 had asserted against SCC (ECF No. 50).

17 6. On July 19, 2019, the parties entered into a stipulation (ECF No. 56) setting a July 30, 2019  
18 response date for SCC’s motion to dismiss the LDLP Counterclaims. This stipulation was endorsed by  
19 this Court on July 23, 2019 (ECF No 57).

20 7. On July 30, 2019, Defendant LDLP filed its response to the SCC motion to dismiss (ECF  
21 No. 64), and also filed an Amended Answer and Counterclaim (ECF No. 61, the “FAAC”). That amended  
22 pleading asserted the same Counterclaims against the Potential Third Party Defendants.

23 8. This Court subsequently held (ECF No. 73, filed August 7, 2019) that the FAAC  
24 superseded the complaint to which SCC’s July 9, 2019 motion to dismiss (ECF No. 50) had been directed.

25 STIPULATION TO EXTEND RESPONSE DATE FOR POTENTIAL THIRD PARTY DEFENDANTS  
26 NELLIE LLC, 1421 CAPITAL LLC, AND ASSOCIATE CAPITAL LLC (FIRST REQUEST)

1 and so mooted the existing SCC motion to dismiss. In the wake of that ruling, SCC filed an updated  
2 motion to dismiss directed to the FAAC (ECF No. 82)..

3 9. Because the FAAC similarly mooted SCC's then-pending Motion to Strike the original  
4 LDLP Answer and Counterclaims (ECF No. 52),, that motion to strike was withdrawn (ECF No. 80) and  
5 SCC filed an updated motion to strike directed to the FAAC (ECF No. 85).

6 10. Defendant LDLP did not serve the Potential Third Party Defendants with either its original  
7 Answer and Counterclaims or the FAAC.

8 11. On August 9, 2019, however, Counsel for Defendant LDLP (Gary Milne) contacted SCC  
9 Counsel (Jim McCarthy) to ask if the Potential Third Party Defendants would waive service of the FAAC  
10 in the manner contemplated by Fed. R. Civ. P. 4.

11 12. Once authorized to do so by those entities, Mr. McCarthy agreed to accept service on behalf  
12 of the Potential Third Party Defendants. He then executed the appropriate waiver of service forms (AO  
13 399) on behalf of each of those entities, and submitted the executed forms to Mr. Milne. Of course, those  
14 waivers of service forms expressly reserved the Potential Third Party Defendants right to assert all  
15 defenses or objections to the lawsuit, including objections to jurisdiction and venue.

16 13. Under the applicable rules, the Potential Third Party Defendants' date for responding to  
17 the FAAC was October 8, 2019. Due to the press of discovery and other work in this case and others, the  
18 affected parties have agreed to extend that response date to October 15<sup>th</sup>. SCC has already granted a  
19 similar extension to LDLP in bankruptcy proceedings in which both are parties.

20 14. In light of the foregoing, the undersigned parties stipulate and agree, pursuant to LR 7-1,  
21 LR IA 6-1, and LR IA 6-2, that the Potential Third Party Defendants need not respond to LDLPs First  
22 Amended Answer and Counterclaims until October 15, 2019.

23 **IT IS SO ORDERED.**

24   
25 UNITED STATES DISTRICT JUDGE  
26 Dated: October 2, 2019.

27 STIPULATION TO EXTEND RESPONSE DATE FOR POTENTIAL THIRD PARTY DEFENDANTS  
28 NELLIE LLC, 1421 CAPITAL LLC, AND ASSOCIATE CAPITAL LLC (FIRST REQUEST)

**IT IS SO ORDERED:**

UNITED STATES MAGISTRATE JUDGE

**STIPULATED AND AGREED BY ALL PARTIES:**

Dated: September 30, 2019.

By: /s/ Robert Hernquist  
Robert Hernquist  
Mark Gardberg  
HOWARD & HOWARD ATTORNEYS  
PLLC  
Wells Fargo Tower, Suite 1000  
3800 Howard Hughes Parkway  
Las Vegas, Nevada 89169-5980  
*Attorneys for Defendant Andrew Fonfa*

By: /s/ Gary Milne  
Gary Milne  
Douglas Gerrard  
GERRARD COX LARSEN  
2450 St. Rose Parkway, Suite 200  
Henderson, Nevada 89074  
*Attorneys for Shelley D. Krohn, Chapter 7  
Trustee for the Lucky Dragon LP Bankruptcy  
Estate*

By: /s/ Nicholas Santoro  
Nicholas Santoro  
Oliver J. Pancheri  
SANTORO WHITMIRE, LTD.  
10100 W. Charleston Blvd., Suite 250  
Las Vegas, Nevada 89135  
*Attorneys for William Weidner & David  
Jacoby*

By: /s/ James D. McCarthy  
James D. McCarthy (*pro hac vice*)  
Jason P. Fulton (*pro hac vice*)  
DIAMOND MCCARTHY, LLP  
2711 N. Haskell Ave., Suite 3100  
Dallas, TX 75204  
Phone: (214) 389-5300  
[jmccarthy@diamondmccarthy.com](mailto:jmccarthy@diamondmccarthy.com)  
[jfulton@diamondmccarthy.com](mailto:jfulton@diamondmccarthy.com)

**and**

Bob L. Olson (NV Bar No. 3783)  
Nathan G. Kanute (NV Bar No.  
12413)  
SNELL & WILMER, L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169  
Telephone: (702) 784-5200  
[bolson@swlaw.com](mailto:bolson@swlaw.com)  
[nkanute@swlaw.com](mailto:nkanute@swlaw.com)

*Attorneys for Plaintiff and Counterclaim  
Defendant Snow Covered Capital, LLC, and  
Potential Third Party Defendants Nellie LLC,  
1421 Capital LLC, and Associate Capital LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Diamond McCarthy, and on the 30<sup>th</sup> day of September, 2019, I caused to be served a copy of foregoing Stipulation in the following manner: (ELECTRONIC SERVICE). Pursuant to Fed. R. Civ. P. 5(b)(3) and LR 5-4, the above referenced document was electronically filed and served upon all of the above-listed counsel of record through the Court's Case Management and Electronic Case Filing (CM/ECF) system:

/s/ James D. McCarthy  
James D. McCarthy

STIPULATION TO EXTEND RESPONSE DATE FOR POTENTIAL THIRD PARTY DEFENDANTS  
NELLIE LLC, 1421 CAPITAL LLC, AND ASSOCIATE CAPITAL LLC (FIRST REQUEST)